

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO, NEVADA

UNITED STATES OF AMERICA,)
)
Plaintiff,) **3:14-cr-00058-HDM-VPC**
)
vs.)
) **MINUTES OF COURT**
THOMAS DEAN CAUDILL,)
)
Defendant.) **February 10, 2016**
 /

PROCEEDINGS: **EVIDENTIARY HEARING RE: DEFENDANT'S
[46] MOTION TO SUPPRESS EVIDENCE**

PRESENT:

THE HONORABLE HOWARD D. McKIBBEN, SENIOR U.S. DISTRICT JUDGE

Deputy Clerk: Paris Rich **Reporter:** Kathryn French

Counsel for Plaintiff: Megan Rachow, AUSA and James Keller, AUSA

Counsel for Defendant: Biray Dogan, AFPD and Michael Kennedy, AFPD

At 10:00 a.m., the Court convenes.

The Defendant (In Custody) is present with counsel.

The Government is present with Greg Ferrando, Case Agent, Federal Bureau of Investigation.

The Court inquires of the Defense as to what alleged incriminating statements in this case cause the filing of the Defendant's [46] Motion. Specifically, the Court asks if the incriminating statements include statements about the gun. Mr. Dogan confirms the incriminating statements include statements about the gun.

BOB ADKINS, Sergeant, Elko County Sheriff's Office, called on behalf of the Government, is sworn, examined on direct by Ms. Rachow, cross-examined by Mr. Dogan, and excused.

DAVID C. ELKINGTON, Special Agent, Federal Bureau of Investigation, called on behalf of the Government, is sworn, examined on direct by Ms. Rachow, cross-examined by Mr. Dogan, examined on redirect by Ms. Rachow, examined on re-cross by Mr. Dogan, and excused.

The Government's Exhibit 1 is received into evidence.

The audio of the Government's Exhibit 1 is published in the courtroom.

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The Government's Exhibit 2 is received into evidence.

The audio of the Government's Exhibit 2 is published in the courtroom.

CHRISTOPHER R. JOHNSON, Special Agent, Federal Bureau of Investigation, called on behalf of the Government, is sworn, examined on direct by Mr. Keller, cross-examined by Mr. Dogan, examined on redirect by Mr. Keller, and excused.

The Government rests.

The Defense rests.

On behalf of the Defendant, Mr. Dogan presents argument.

On behalf of the Government, Ms. Rachow presents argument.

Mr. Dogan presents closing argument.

At 11:21 a.m., the Court recites findings.

IT IS ORDERED, the Defendant's [46] Motion to Suppress Evidence is GRANTED IN PART and DENIED IN PART, as recited. IT IS SO ORDERED.

The Court restates the jury trial date of March 1, 2016 with Calendar Call on February 17, 2016.

The Court addresses the additional pending motions.

IT IS ORDERED, a Motions Hearing Re: [37] Defendant's Motion to Dismiss Count Two for Lack of a Predicate Crime of Violence; [38] Defendant's Motion to Dismiss Count Two for Failure to State an Offense; [39] Defendant's Motion to Dismiss Count Three for Failure to State an Offense under FRCP 12(b)(3)(B)(v); and [48] Defendant's Motion to Sever Counts is set for Wednesday, February 17, 2016 at 11:00 a.m. in Reno Courtroom 4 before Judge Howard D. McKibben. IT IS SO ORDERED.

The Court recites findings and rulings as to the remaining pending motions.

IT IS ORDERED, [40] Defendant's Motion to Strike Surplusage from Count One of the Indictment Pursuant to Federal Rule of Criminal Procedure 7(d) is GRANTED.

IT IS FURTHER ORDERED, [42] Defendant's Motion to Inspect and Produce Personnel Files of Federal Law Enforcement Agents and Officers is GRANTED.

IT IS FURTHER ORDERED, [43] Motion for Notice of Intent to Introduce Evidence Pursuant to Federal Rule of Evidence 404(b) as unopposed is MOOT. Mr. Kennedy recites the parties' agreement of eighteen (18) days notice prior to trial.

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IT IS FURTHER ORDERED, [44] Defendant's Motion to Use a Case Specific Jury Questionnaire is DENIED.

IT IS FURTHER ORDERED, [45] Defendant's Motion Pursuant to Federal Rule of Criminal Procedure 24(a), to Permit Supplemental Attorney Examination or Questioning of Prospective Jurors is GRANTED.

For purposes of any sidebar, counsel stipulate to the Defendant remaining at Defense counsel table during the sidebar and, thereafter, the Defense counsel will be allowed opportunity to return and explain the sidebar discussion to the Defendant. Further, if the Defendant then requests to hear a read back of what was discussed at the sidebar, the Court will recess the jury and conduct the read back for the Defendant.

The Court restates the previous granting of the Defendant's request for an Elko Division Master Jury Wheel for the jury selection in this matter.

If the case resolves, the Court advises counsel to contact the Court.

In closing, the Court addresses the issue of shackling of the Defendant during the time of trial and the Court's modesty screens. The Court advises the U.S. Marshals present this date of the preference that the Defendant's hands and feet not be shackled at trial. However, the Court further states if there is something specific that warrants the Defendant's shackling for trial, the Court should be so advised.

The Defendant is remanded to custody.

At 11:43 a.m., the Court adjourns.

LANCE S. WILSON, CLERK

By: /s/ Paris Rich
Deputy Clerk